Supreme Court, U. S.
FILED
SEP 7 1974
MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1968

No. 52, Original

UNITED STATES OF AMERICA,
Plaintiff,

-v-

STATE OF FLORIDA,
Defendant

Florida's Response to Exceptions of the United States to the Report of the Special Master

ROBERT L. SHEVIN
Attorney General

DANIEL S. DEARING
Chief Trial Counsel

725 So. Calhoun Street
Tallahassee, Florida 32304

APPENDIX

APPENDIX

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT. CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE. FLORIDA 32201

SAJSP

24 July 1974

Honorable Thomas A. Harris
Assistant Attorney General
Department of Legal Affairs
Civil Division
Capitol Building
Tallahassee, Florida 32304

RECEIVED
JUL 25 1974
ATTORNEY GENERAL'S OFFICE

Dear Mr. Harris:

Reference is made to the telephone conversation with Mrs. Claydon, this office, on 22 July 1974 in which you requested regulations promulgated in Florida Bay.

Our records show that only three regulations were established in this area. Copies are inclosed.

As you will note, Danger Area 204.95 was formerly designated 204.85c and has been amended several times. Danger Area 204.86 was established 29 December 1948 and revoked 16 July 1973. Restricted Area 207.173a was established 7 April 1969.

It is hoped this will serve your need.

Sincerely yours,

Joseph T. Fanara
FOR

B. N. GOODE
Chief, Regulatory Branch

3 Incl
As stated

APPENDIX 1

DEPARTMENT OF THE ARMY
Jacksonville District, Corps of Engineers
P. O. Box 4970
Jacksonville, Florida 32201

Current Regulations

SAJSP Danger Zone Regulations 24 October 1966

TITLE 33-NAVIGATION AND NAVIGABLE WATERS
CHAPTER II-CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY
PART 204 -- DANGER ZONE REGULATIONS
STRAITS OF FLORIDA AND FLORIDA BAY, FLA.

Pursuant to the provisions of Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) Section 204.95 establishing and governing the use and navigation of danger zones in the Straits of Florida and Florida Bay, Florida, is hereby amended with respect to subparagraph (a)(2), revoking one of the danger zones in subdivision (iii), effective 30 days after publication in the FEDERAL REGISTER as follows:

204.95 Straits of Florida and Florida Bay in vicinity of Key West, Fla.; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, Florida.

(a) The danger zones.

(1) Operational training area. Waters of the Straits of Florida and Gulf of Mexico southwest, west and northwest of Key West bounded as follows: Beginning at latitude 25°45'00", longitude 82°07'00"; thence southeast to latitude 24°49'00", longitude 81°55'00"; thence southwest to latitude 24°37'30", longitude 82°00'30"; thence westerly to latitude 24°37'30", longitude 82°06'00"; thence southerly to latitude 24°28'30", longitude 82°06'00"; thence southerly to latitude 24°25'00", longitude 82°06'30"; thence easterly to latitude 24°25'00", longitude 81°57'00"; thence southwesterly to latitude 23°30'00", longitude 82°19'00"; thence westerly to latitude 23°30'00", longitude 82°46'00"; thence northwesterly to latitude 23°52'30", longitude 83°11'00"; thence northerly to latitude 24°25'00", longitude 83°11'00"; thence easterly to latitude 24°25'00", longitude 83°08'00"; thence clockwise along the arc of a circle with a radius of 92 miles centered at latitude 24°35'00", longitude 81°41'15" to latitude 25°45'05", longitude 82°23'30"; thence east to point of beginning.

(2) Aerial gunnery range. (Previously revoked).

(3) Bombing and strafing target areas. (i) A circular area immediately west of Marquesas Keys with a radius of two nautical miles having its center at latitude 24°33.4' and longitude 82°10.9', not to include land area and area within Marquesas Keys. The target located within this area, a grounded LSIL will be used for bombing and aircraft rocket exercises.

(ii) A circular area located directly west of Marquesas Keys with a radius of three statute miles having its center at latitude 24°35.6' and longitude 82°11.6', not to include land area within Marquesas Keys. The targets located within this area, pile-mounted platform, will be used as high altitude horizontal bombing range utilizing live ordnance up to and including 1,800 pounds of high explosives. In general, these explosives will be of an air-burst type, above 1,500 feet.

APPENDIX 2

(iii) A circular area located west of Marquesas Keys with a radius of two nautical miles having its center at latitude 24°34'30" and longitude 82°14'00".

(b) The regulations. (1) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, and give such other pertinent information as may be required in the interests of safety.

(2) Watercraft shall not be prohibited from passing through the operational training area except when the operations being conducted are of such nature that the exclusion of watercraft is required in the interest of safety or for accomplishment of the mission, or is considered important to the national security.

(3) When the warning to navigation interests states that bombing and strafing operations will take place over the designated target areas or that other operations hazardous to watercraft are proposed to be conducted in a specifically described portion of the overall area, all watercraft will be excluded from the target area or otherwise described zone of operations and no vessel shall enter or remain therein during the period operations are in progress.

(4) Aircraft and naval vessels conducting operations in any part of the operational training area will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave and upon being so warned the vessel shall leave immediately.

(5) The regulations in this section shall be enforced by the Commandant, Sixth Naval District, Charleston, S. C., and such agencies as he may designate.

Approved: 26 Sep 1966

/s/ Stanley R. Resor
Secretary of the Army

NOTE: The danger areas described in paragraph (a)(1) and subparagraphs (i) and (ii) hereinabove are still active and subject to bombing and rocket firing therein at any time upon proper notice.

These rules and regulations will be in full force and effect 30 days after publication in the FEDERAL REGISTER. They were published in the FEDERAL REGISTER on 11 October 1966; public notices of their approval were sent to all known interested parties on 23 October 1966; they have been posted at post offices and other public places.

APPENDIX 3

BEST COPY AVAILABLE

U. S. ARMY ENGINEER DISTRICT, JACKSONVILLE
CORPS OF ENGINEERS
575 RIVERSIDE AVENUE
JACKSONVILLE 2, FLORIDA

Amended
Eff 24 Oct 66

SAKSP Danger Zone Regulations

23 March 1962

PART 204--DANGER ZONE REGULATIONS

STRAITS OF FLORIDA AND FLORIDA BAY, FLA.

Pursuant to the provisions of Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), Section 204.95 establishing and governing the use and navigation of danger zones in the Straits of Florida and Florida Bay, Florida, is hereby amended prescribing paragraph (a) (3) (iii) to establish two additional bombing and strafing areas and revising paragraphs (b) (1) through (b) (4) to clarify the restrictions on the use of the areas, effective 30 days after publication in the FEDERAL REGISTER, as follows:

204.95 Straits of Florida and Florida Bay in vicinity of Key West, Fla.; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, Florida. (a) The danger zones.
(1) Operational training area. Waters of the Straits of Florida and Gulf of Mexico southwest, west and northwest of Key West bounded as follows: Beginning at latitude 25°45'00", longitude 82°07'00"; thence southeast to latitude 24°49'00", longitude 81°55'00"; thence southwest to latitude 24°37'30", longitude 82°00'30"; thence westerly to latitude 24°37'30", longitude 82°06'00"; thence southerly to latitude 24°28'30", longitude 82°06'00"; thence southerly to latitude 24°25'00", longitude 82°06'30"; thence easterly to latitude 24°25'00", longitude 81°57'00"; thence southwesterly to latitude 23°30'00", longitude 82°19'00"; thence westerly to latitude 23°30'00", longitude 82°46'00"; thence northwesterly to latitude 23°52'30", longitude 83°11'00"; thence northerly to latitude 24°25'00", longitude 83°11'00"; thence easterly to latitude 24°25'00", longitude 83°08'00"; thence clockwise along the arc of a circle with a radius of 92 miles centered at latitude 24°35'00", longitude 81°41'15" to latitude 25°45'05", longitude 82°23'30"; thence east to point of beginning.

(2) Aerial gunnery range. (Previously revoked).

(3) Bombing and strafing target areas. (i) A circular area immediately west of Marquesas Keys with a radius of two nautical miles having its center at latitude 24°33.4' and longitude 82°10.9', not to include land area and area within Marquesas Keys. The target located within this area, a grounded LSIL will be used for bombing and aircraft rocket exercises.

(ii) A circular area located directly west of Marquesas Keys with a radius of three statute miles having its center at latitude 24°35.6' and longitude 82°11.6', not to include land area within Marquesas Keys. The targets located within this area, pile-mounted platform, will be used as high altitude horizontal bombing range utilizing live ordnance up to and including 1,800 pounds of high explosives. In general, these explosives will be of an air-burst type, above 1,500 feet.

D.9. / APPENDIX 4

(iii) Two circular areas located west of Marqueses Keys each with a radius of two nautical miles, one having its center at latitude 24°34'30" and longitude 82°14'00", and the other having its center at latitude 24°34'30" and longitude 82°24'00".

(b) The regulations. (1) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, and give such other pertinent information as may be required in the interests of safety.

(2) Watercraft shall not be prohibited from passing through the operational training area except when the operations being conducted are of such nature that the exclusion of watercraft is required in the interest of safety or for accomplishment of the mission, or is considered important to the national security.

(3) When the warning to navigation interests states that bombing and strafing operations will take place over the designated target areas or that other operations hazardous to watercraft are proposed to be conducted in a specifically described portion of the overall area, all watercraft will be excluded from the target area or otherwise described zone of operations and no vessel shall enter or remain therein during the period operations are in progress.

(4) Aircraft and naval vessels conducting operations in any part of the operational training area will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave and upon being so warned the vessel shall leave immediately.

(5) The regulations in this section shall be enforced by the Commandant, Sixth Naval District, Charleston, S. C., and such agencies as he may designate.

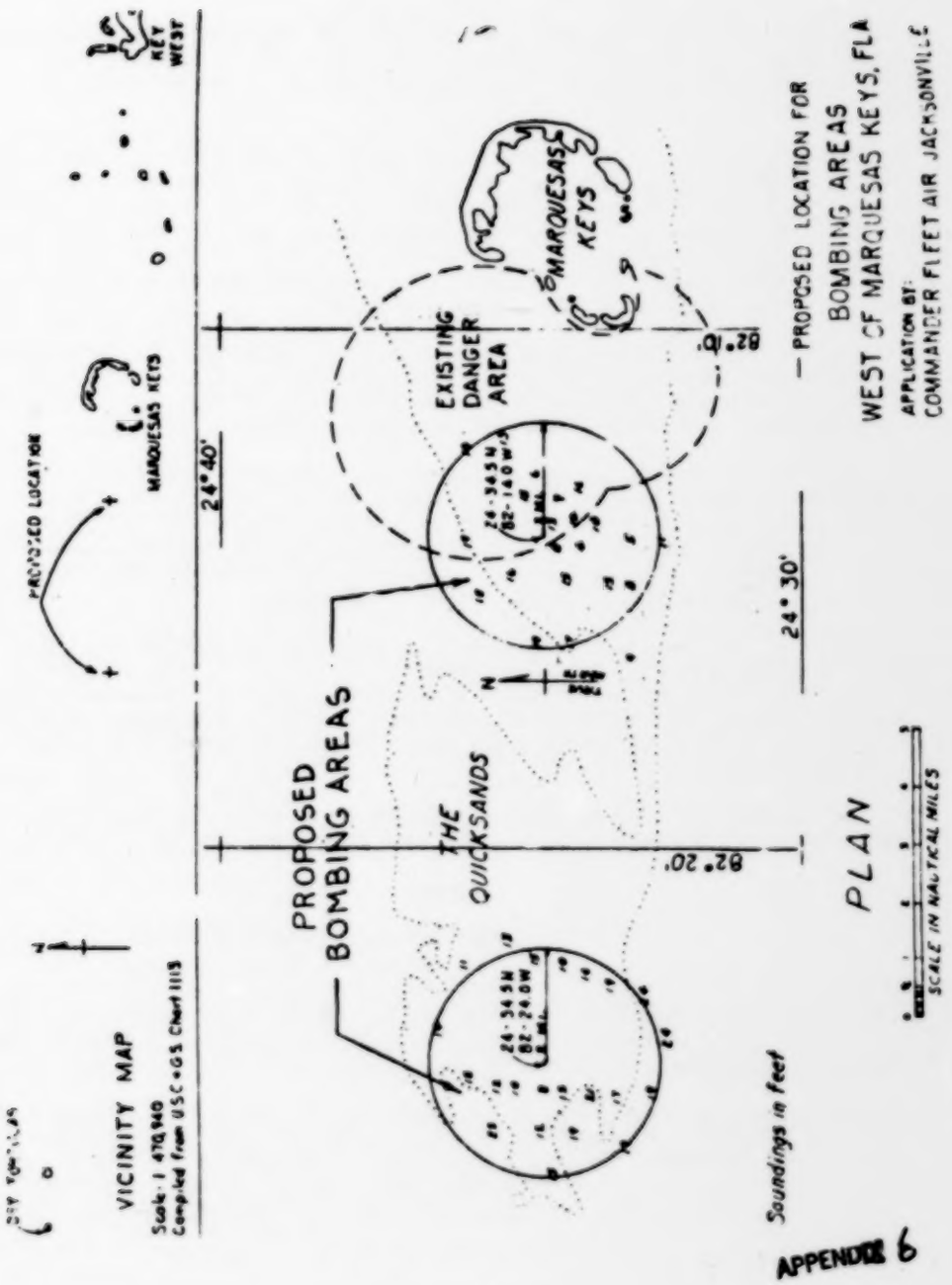
Approved: FEB 28, 1962

/s/ Elvis J. Stahr, Jr.
Secretary of the Army

NOTE: The danger areas described in paragraph (a) (1) and subparagraphs (i) and (ii) hereinabove are still active and subject to bombing and rocket firing therein at any time upon proper notice.

The amendments to these rules and regulations will be in full force and effect and have the full force of law thirty days after their publication in the FEDERAL REGISTER. They were published in the FEDERAL REGISTER 16 March 1962; public notices of their approval were sent to all known interested parties on 23 March 1962; they have been posted at post offices and other public places.

APPENDIX 5



APPENDIX 6

U. S. ARMY ENGINEER DISTRICT, JACKSONVILLE
CORPS OF ENGINEERS
575 RIVERSIDE AVENUE
JACKSONVILLE 2, FLORIDA

Amended to 23 May 1962

SAKSP Danger Zone Regulations 29 March 1960

PART 204--DANGER ZONE REGULATIONS

STRAITS OF FLORIDA AND FLORIDA BAY, FLORIDA

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), Section 204.95 governing the use and navigation of Naval operational training, aerial gunnery, and bombing and strafing areas in the Straits of Florida and Florida Bay, Florida, is hereby amended revoking subparagraphs (i) and (ii) of paragraph (a) (3), as follows:

204.95 Straits of Florida and Florida Bay in vicinity of Key West, Fla.; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, Fla. (a) The danger zone.
(1) Operational training area. Waters of the Straits of Florida and Gulf of Mexico southwest, west and northwest of Key West bounded as follows: Beginning at latitude 25°45'00", longitude 82°07'00", thence southeast to latitude 24°49'00", longitude 81°55'00"; thence southwest to latitude 24°37'30", longitude 82°00'30"; thence westerly to latitude 24°37'30", longitude 82°06'00" thence southerly to latitude 24°28'30", longitude 82°06'00", thence southerly to latitude 24°25'00", longitude 82°06'30"; thence easterly to latitude 24° 25'00", longitude 81°57'00"; thence southwesterly to latitude 23°30'00", longitude 82°19'00"; thence westerly to latitude 23°30'00", longitude 82°46'30" thence northwesterly to latitude 23°52'30", longitude 83°11'00"; thence northerly to latitude 24°25'00", longitude 83°11'00"; thence easterly to latitude 24°25'00", longitude 83°08'00"; thence clockwise along the arc of a circle with a radius of 92 miles centered at latitude 24°35'00", longitude 81°41'15" to latitude 25°45'05", longitude 82°23'30"; thence east to point of beginning.

(2) Aerial gunnery range. (Previously revoked).

(3) Bombing and strafing target areas. (i) (Revoked).

(ii) (Revoked).

(iii) (Previously revoked).

(iv) A circular area immediately west of Marquesas Keys with a radius of two nautical miles having its center at latitude 24°33.4' and longitude 82° 10.9', not to include land area and area within Marquesas Keys. The target located within this area, a grounded LSIL will be used for bombing and aircraft rocket exercises.

(v) A circular area located directly west of Marquesas Keys with a radius of three statute miles having its center at latitude 24°35.6' and longitude

APPENDIX 7

82°11.6', not to include land area within Marquesas Keys. The targets located within this area, pile-mounted platforms, will be used as high altitude horizontal bombing range utilizing live ordinance up to and including 1,000 pounds [illegible] explosives. In general, these explosives will be of an air-burst type, above 1,500 feet.

(4) The regulations. (i) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, give such other pertinent information as may be required in the interests of safety, and state whether watercraft will be excluded from the zone of operations which is defined as that portion of a danger zone within which watercraft might be endangered by the operations in progress.

(2) Watercraft shall not be prohibited from passing through a danger zone except when the operations being conducted are of such a nature that the exclusion of watercraft from the zone of operations is required in the interests of safety or for accomplishment of the mission, or is considered important to the national security.

(3) When the warning to navigation interests states that watercraft will be excluded from the zone of operations, no vessel shall enter or remain in such area during the period the operations are in progress.

(4) Aircraft and naval vessels conducting operations in a danger zone will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave, and upon being so warned the vessel shall leave the zone of operations immediately.

(5) The regulations in this section shall be enforced by the Commandant, Sixth Naval District, Charleston, S. C., and such agencies as he may designate.

Approved: 7 March 1960

/s/ William M. Brucker
Secretary of the Army

NOTE: The targets within the danger areas which have been revoked by this notice consisting of a grounded LCI and a grounded eagle boat are still in the waters and are submerged at a depth of about one [illegible] below mean low water and located at latitude 24°34'30" N., longitude 82°14'00" W., and at latitude 24°36'20" N., longitude [illegible]".

The adjacent danger zones described in subparagraph (iv) and (v) hereinabove are still active and bombing and rocket firing will continue in these areas.

APPENDIX 8

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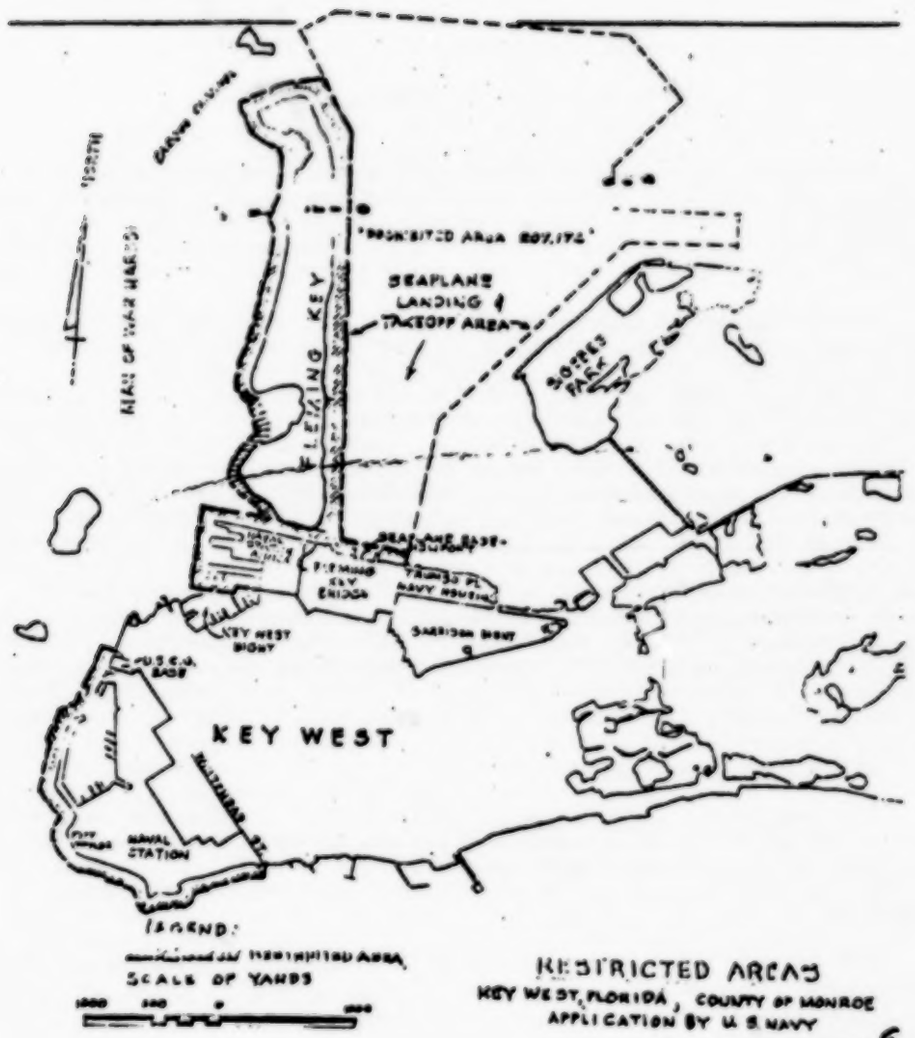


RESTRICTED AREAS
KEY WEST, FLORIDA, COUNTY OF MONROE
APPLICATION BY U.S. NAVY

APPENDIX 9

U. S. ARMY ENGINEER DISTRICT, JACKSONVILLE
CORPS OF ENGINEERS
575 RIVERSIDE AVENUE
JACKSONVILLE 2, FLORIDA

Amended
Le 29 May 1960

SAJSP Danger Zone Regulations 25 September 1959

PART 204—DANGER ZONE REGULATIONS

STRAITS OF FLORIDA AND FLORIDA BAY, FLORIDA

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), Section 204.95 governing the use and navigation of Naval operational training, aerial gunnery, and bombing and strafing areas in the Straits of Florida and Florida Bay, Florida, is hereby amended to establish a new bombing and strafing area, as follows:

204.95 Straits of Florida and Florida Bay in vicinity of Key West, Fla.; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, Fla. (a) The danger zones. (1) Operational training area. Waters of the Straits of Florida and Gulf of Mexico southwest, west and northwest of Key West bounded as follows: Beginning at latitude 25°45'00", longitude 82°07'00", thence southeast to latitude 24°49'00", longitude 81°55'00"; thence southwest to latitude 24°37'30", longitude 82°00'30"; thence westerly to latitude 24°37'30", longitude 82°06'00"; thence southerly to latitude 24°28'30", longitude 82°06'00"; thence southerly to latitude 24°25'00", longitude 82°06'30"; thence easterly to latitude 24° 25'00", longitude 81°57'00"; thence southwesterly to latitude 23°30'00", longitude 82°19'00"; thence westerly to latitude 23°30'00", longitude 82°46'00"; thence northwesterly to latitude 23°52'30", longitude 83°11'00"; thence northerly to latitude 24°25'00", longitude 83°11'00"; thence easterly to latitude 24°25'00", longitude 83°08'00"; thence clockwise along the arc of a circle with a radius of 92 miles centered at latitude 24°35'00", longitude 81°41'15" to latitude 25°45'05", longitude 82°23'30"; thence east to point of beginning.

(2) Aerial gunnery range. (Revoked).

(3) Bombing and strafing target areas. (i) A circular area immediately west of Marquesas Keys with a radius of two and one-half statute miles having its center at latitude 24°34'30", longitude 82°14'00". The target located within this area, a grounded LCI, will be used for air-to-ground gunnery exercises.

(ii) A circular area immediately north of Marquesas Keys with a radius of two nautical miles having its center at latitude 24°38'20", longitude 82°06'25". The target located within this area, a grounded eagle boat, will be used for bombing exercises using water-filled bombs only.

APPENDIX 10

(iii) (Revoked).

(iv) A circular area immediately west of Marquesas Keys with a radius of two nautical miles having its center at latitude 24°33.4' and longitude 82° 10.9', not to include land area and area within Marquesas Keys. The target located within this area, a grounded LSIL will be used for bombing and aircraft rocket exercises.

(v) A circular area located directly west of Marquesas Keys with a radius of three statute miles having its center at latitude 24°35.6' and longitude 82°11.6', not to include land area within Marquesas Keys. The targets located within this area, pile-mounted platforms, will be used as high altitude horizontal bombing range utilizing live ordnance up to and including 1,800 pounds of high explosives. In general, these explosives will be of an air-burst type, above 1,500 feet.

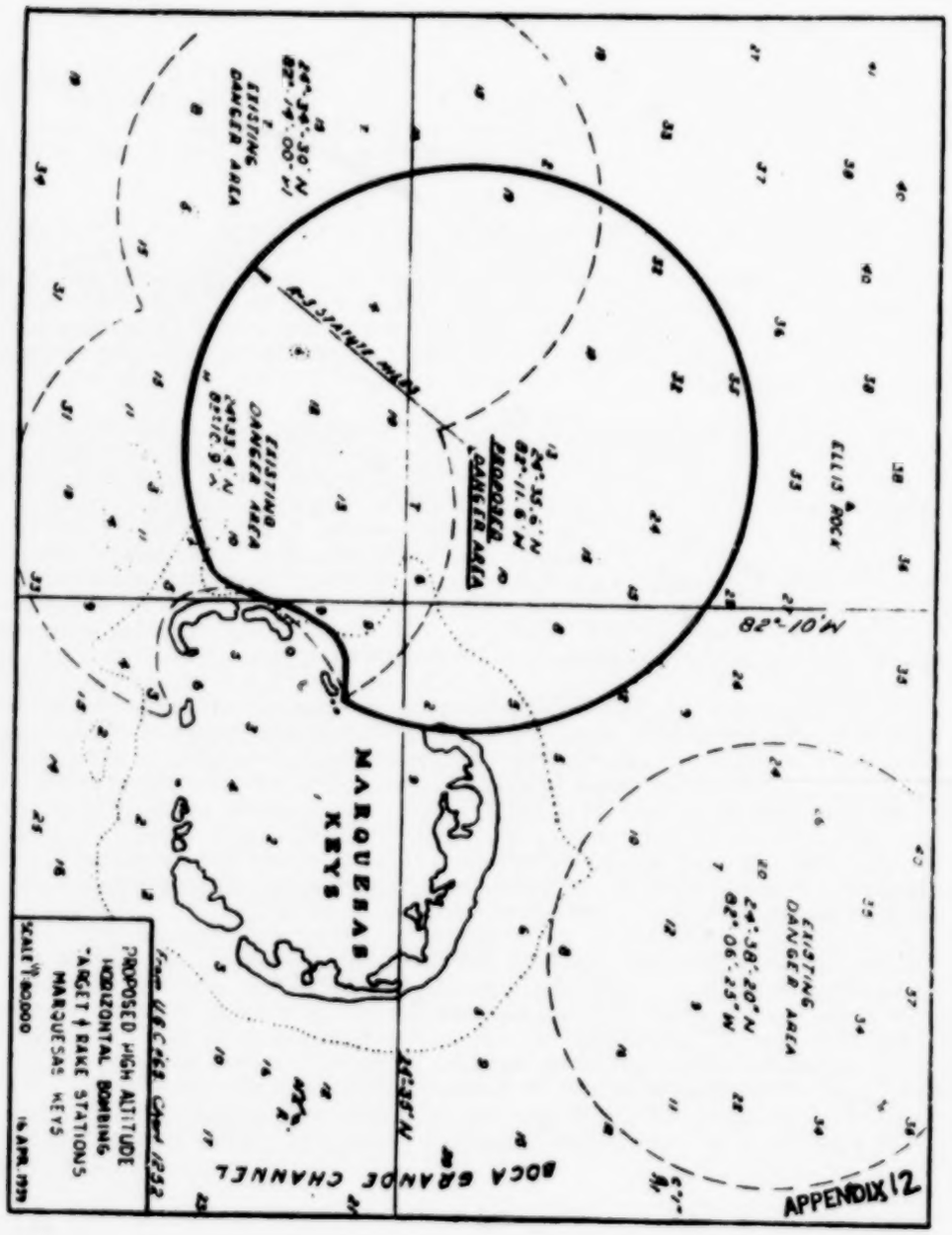
(b) The regulations. (1) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, give such other pertinent information as may be required in the interests of safety, and state whether watercraft will be excluded from the zone of operations which is defined as that portion of a danger zone within which watercraft might be endangered by the operations in progress.

(2) Watercraft shall not be prohibited from passing through a danger zone except when the operations being conducted are of such a nature that the exclusion of watercraft from the zone of operations is required in the interests of safety or for accomplishment of the mission, or is considered important to the national security.

(3) When the warning to navigation interests states that watercraft will be excluded from the zone of operations, no vessel shall enter or remain in such area during the period the operations are in progress.

(4) Aircraft and naval vessels conducting operations in a danger zone will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave, and upon being so warned the vessel shall leave the zone of operations immediately.

APPENDIX 11



DEPARTMENT OF THE ARMY
Jacksonville District, Corps of Engineers
P. O. Box 4970
Jacksonville, Florida 32201

SAJSP Restricted Area - Key West 6 May 1969

TITLE 33 - NAVIGATION AND NAVIGABLE WATERS
CHAPTER II - CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY
PART 207 - NAVIGATION REGULATIONS
KEY WEST HARBOR, FLA

Pursuant to the provisions of Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), Section 207.173a establishing and governing the use of a restricted area in Key West Harbor, Florida, is hereby amended in its entirety, effective 30 days after publication in the FEDERAL REGISTER as follows:

207.173a Key West Harbor, at U. S. Naval Base, Key West, Fla; naval restricted area.

(a) The areas. (1) All waters within one hundred yards of the U. S. Naval Station beginning at a point one hundred yards due south of the south end of Whitehead Street at latitude 24°32'42.3"N, longitude 81°47'51"W, and extending westerly and northerly around the U. S. Naval Station to latitude 24°33'33"N, longitude 81°48'32.7"W; and thence to the shore at latitude 24°33'32"N, longitude 81°48'29.5"W; the north end of the U. S. Coast Guard Base.

(2) All waters within one hundred yards of the U. S. Naval Station Annex and the U. S. Naval Air Station Annex beginning at the shore at latitude 24°33'47.6"N, longitude 81°47'55.6"W; thence westerly to latitude 24°33'47.6"N, longitude 81°48'00.9"W; thence southerly to latitude 24°33'45.8"N, longitude 81°48'01"W; thence westerly to latitude 24°33'47"N, longitude 81°48'12"W; thence northerly to latitude 24°34'00.3"N, longitude 81°48'10"W; and thence to latitude 24°33'57.6"N, longitude 81°47'20"W, one hundred yards offshore of beacon No. 13.

(3) All waters within one hundred yards of Fleming Key and within one hundred yards of the fence across Fleming Key Cove.

(b) The regulations. (1) Entering or crossing any of the restricted areas described in paragraph (a) of this section is prohibited except as follows: Privately-owned vessels properly registered and bearing identification in accordance with Federal and/or State laws and regulations, and at night showing lights required by Federal laws and U. S. Coast Guard regulations or, if no constant lights are required, then a bright white light showing all around the horizon, may transit the following portions of the restricted areas:

(i) The channel about 75 yards in width extending from the northwest corner of the U. S. Naval Station Annex eastward beneath the Fleming Key bridge along the north shore of the U. S. Naval Station Annex and the U. S. Naval Air Station Annex:

APPENDIX 13

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(ii) A channel 150 feet in width which will extend easterly from the main ship channel into Key West Bight, the northerly edge of which channel passes 25 feet south of the Navy Annex piers on the north side of the Bight. While legitimate access of privately owned vessels to facilities of Key West Bight is unimpeded, it is prohibited from mooring, anchoring, or fishing within 50 feet of any U. S. Navy owned pier or craft.

(2) Stopping or landing by other than government owned vessels and certain specifically authorized private craft in any of the restricted areas described in paragraph (a) of this section is prohibited.

(3) Vessels using the restricted channel areas described in subdivisions (i) and (ii) shall proceed at speeds commensurate with minimum wake.

(4) The regulations in this section shall be enforced by the Commander, U. S. Naval Base, Key West, Florida, and such agencies as he may designate.

Approved: 7 April 1969

/s/ Stanley R. Resor

/t/ STANLEY R. RESOR
Secretary of the Army

These rules and regulations will be in full force and effect 30 days after their publication in the FEDERAL REGISTER. They were published in the FEDERAL REGISTER on 25 April 1969; public notices of their approval were sent to all known interested parties on 6 May 1969; they have been posted at post offices and other public places.

APPENDIX 14

24 June 1948

PART 204--DANGER ZONE REGULATIONS

STRAITS OF FLORIDA AND FLORIDA BAY IN VICINITY OF KEY WEST, FLA.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), section 204.85c is hereby prescribed to govern the use and navigation of waters of the Straits of Florida and Florida Bay in the vicinity of Key West, Florida, comprising restricted areas for operations of the Naval Air Station, Key West, as follows:

204.85c Straits of Florida in Florida Bay in vicinity of Key West, Fla.; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, Fla.

(a) The danger zones. (1) Operational training area. Waters of the Straits of Florida southwest of Key West bounded as follows: Beginning at latitude 24°18'00", longitude 82°09'30"; thence south-southwest to latitude 23°30'30", longitude 82°31'30"; thence generally northwest by north, along an arc of a circle having its center at latitude 24°35'00", longitude 81°41'15", to latitude 24°18'00", longitude 83°06'30"; thence due east to the point of beginning. This area will be used for bombing, torpedo, and air-to-air combat or other special exercises.

(2) Aerial gunnery range. Waters in the vicinity of Florida Bay, northeast of Key West bounded as follows: Beginning at latitude 25°30'00", longitude 81°22'00"; thence south to latitude 25°01'45", longitude 81°20'30"; thence southwest to latitude 24°51'15", longitude 81°42'50"; thence north to latitude 25°42'00", longitude 81°46'00"; thence southeast to the point of beginning. This area will be used for air-to-air gunnery or other exercises.

(3) Bombing and strafing target areas. (i) A circular area immediately west of Marquesas Keys with a radius of two and one-half statute miles having its center at latitude 24°34'30", longitude 82°14'00". The target located within this area, a grounded LCI, will be used for air-to-ground gunnery exercises.

(ii) A circular area immediately north of Marquesas Keys with a radius of two nautical miles having its center at latitude 24°38'20", longitude 82°06'25". The target located within this area, a grounded eagle boat, will be used for bombing exercises using water-filled bombs only.

(iii) A rectangular area immediately northeast of Key West bounded as follows: Beginning at latitude 24°40'14", longitude 81°35'12"; thence to latitude 24°38'25", longitude 81°34'38"; thence to latitude 24°37'10", longitude 81°38'46"; thence to latitude 24°38'50", longitude 81°39'23"; thence to the point of beginning. This area, an aircraft rocket range, will be used for air-to-ground rocket firing exercises.

Void superseded

APPENDIX 15

(b) The regulations. (1) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, give such other pertinent information as may be required in the interests of safety, and state whether watercraft will be excluded from the zone of operations which is defined as that portion of a danger zone within which watercraft might be endangered by the operations in progress.

(2) Watercraft shall not be prohibited from passing through a danger zone except when the operations being conducted are of such a nature that the exclusion of watercraft from the zone of operations is required in the interests of safety or for accomplishment of the mission, or is considered important to the national security.

(3) When the warning to navigation interests states that watercraft will be excluded from the zone of operations, no vessel shall enter or remain in such area during the period the operations are in progress.

(4) Aircraft and naval vessels conducting operations in a danger zone will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave, and upon being so warned the vessel shall leave the zone of operations immediately.

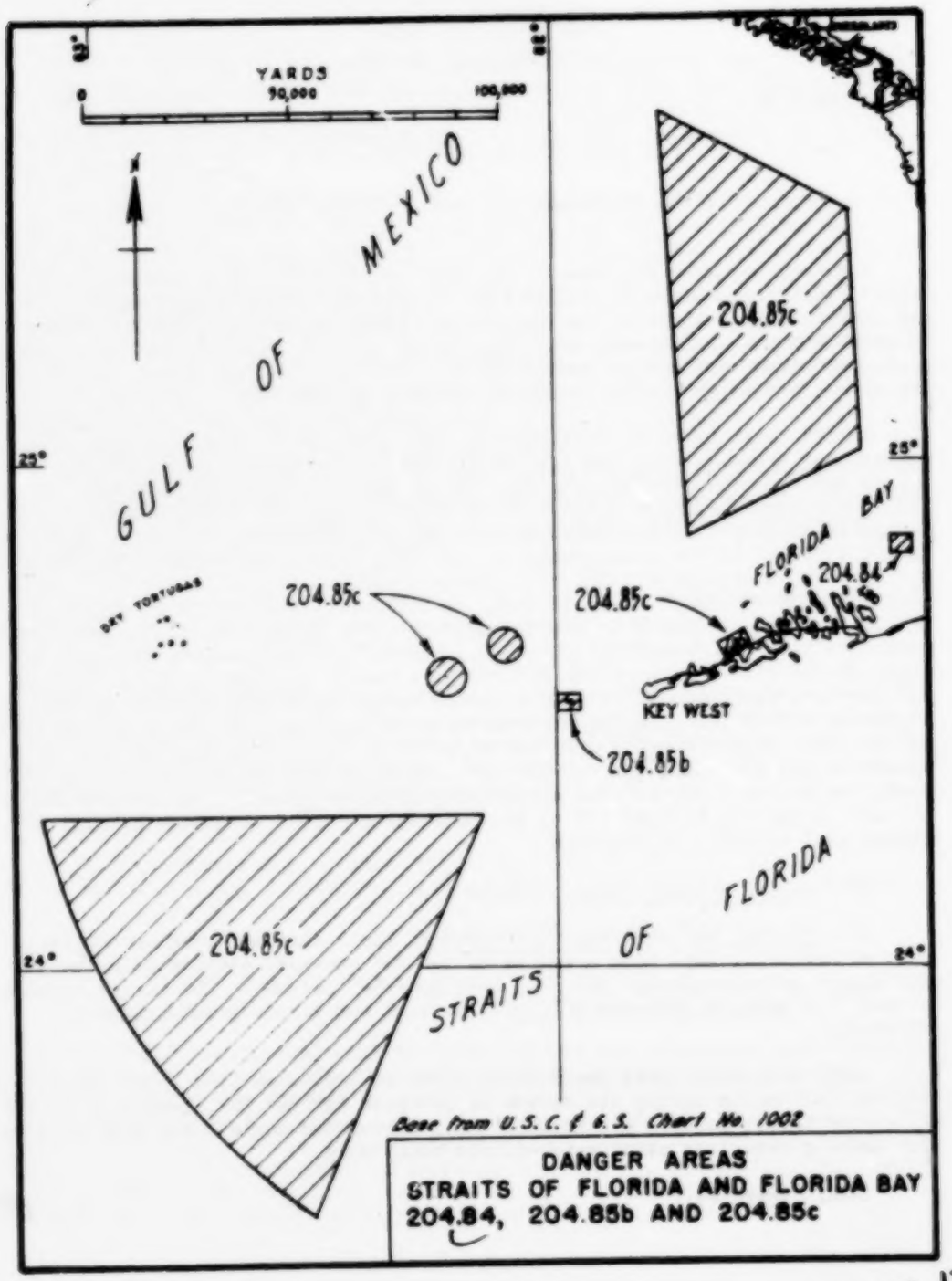
(5) The regulations in this section shall be enforced by the Commandant Seventh Naval District, Jacksonville, Florida, and such agencies as he may designate.

Approved June 1, 1948

/s/ Kenneth C. Royall
Secretary of the Army

These rules and regulations will be in full force and effect and have the force of law 30 days after their publication in the Federal Register. They were published in the Federal Register on 22 June 1948; public notice of their approval were sent to all known interested parties on 24 June 1948. They have been posted in the post offices at Key West, Miami, Miami Beach, Ft. Lauderdale, Stuart, Fort Pierce, Palm Beach, West Palm Beach, and Lake Worth, all in Florida; and furnished to local press for publication as a news item.

APPENDIX 16



APPENDIX 17

CORPS OF ENGINEERS, U. S. ARMY
OFFICE OF THE DISTRICT ENGINEER
JACKSONVILLE DISTRICT
575 RIVERSIDE AVENUE
JACKSONVILLE, FLORIDA

SAKSP 800.2121 19 July 1957

PART 204--DANGER ZONE REGULATIONS

STRAITS OF FLORIDA AND FLORIDA BAY, FLORIDA

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), Section 204.95 governing the use and navigation of waters of the Straits of Florida and Florida Bay, Florida, comprising Naval operational training, aerial gunnery, and bombing and strafing areas, is hereby amended to delete the presently established areas, to establish new areas, and to change the enforcing agency. ~~as follows:~~

204.95 Straits of Florida and Florida Bay in vicinity of Key West, Fla.; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, Fla. (a) The danger zones. (1) Operational training area. Waters of the Straits of Florida and Gulf of Mexico southwest, west and northwest of Key West bounded as follows: Beginning at latitude 25° 45' 00", longitude 82° 07' 00", thence southeast to latitude 24° 49' 00", longitude 81° 55' 00"; thence southwest to latitude 24° 37' 30", longitude 82° 00' 30"; thence westerly to latitude 24° 37' 30", longitude 82° 06' 00"; thence southerly to latitude 24° 28' 30", longitude 82° 06' 00"; thence southerly to latitude 24° 25' 00", longitude 82° 06' 30"; thence easterly to latitude 24° 25' 00", longitude 81° 57' 00"; thence southwesterly to latitude 23° 30' 00", longitude 82° 19' 00"; thence westerly to latitude 23° 30' 00", longitude 82° 46' 00"; thence northwesterly to latitude 23° 52' 30", longitude 83° 11' 30"; thence northerly to latitude 24° 25' 00", longitude 83° 11' 00"; thence easterly to latitude 24° 25' 00", longitude 83° 00' 00"; thence clockwise along the arc of a circle with a radius of 9½ miles centered at latitude 24° 35' 00", longitude 81° 41' 15" to latitude 25° 45' 05", longitude 82° 23' 30"; thence east to point of beginning.

(2) Aerial gunnery range. (Revoked).

(3) Bombing and strafing target areas. (i) A circular area immediately west of Marquesas Keys with a radius of two and one-half statute miles having its center at latitude 24° 34' 30", longitude 82° 14' 00". The target located within this area, a grounded LCI, will be used for air-to-ground gunnery exercises.

(ii) A circular area immediately north of Marquesas Keys with a radius of two nautical miles having its center at latitude 24° 38' 20", longitude 82° 06' 25". The target located within this area, a grounded eagle boat, will be used for bombing exercises using water-filled bombs only.

(iii) (Revoked).

APPENDIX 19

(iv) A circular area immediately west of Marquesas Keys with a radius of two nautical miles having its center at latitude 24° 33.4' and longitude 82° 10.9', not to include land area and area within Marquesas Keys. The target located within this area, a grounded LSIL will be used for bombing and aircraft rocket exercises.

(b) The regulations. (1) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, give such other pertinent information as may be required in the interests of safety, and state whether watercraft will be excluded from the zone of operations which is defined as that portion of a danger zone within which watercraft might be endangered by the operations in progress.

(2) Watercraft shall not be prohibited from passing through a danger zone except when the operations being conducted are of such a nature that the exclusion of watercraft from the zone of operations is required in the interests of safety or for accomplishment of the mission, or is considered important to the national security.

(3) When the warning to navigation interests states that watercraft will be excluded from the zone of operations, no vessel shall enter or remain in such area during the period the operations are in progress.

(4) Aircraft and naval vessels conducting operations in a danger zone will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave, and upon being so warned the vessel shall leave the zone of operations immediately.

(5) The regulations in this section shall be enforced by the Commandant, Sixth Naval District, Charleston, S. C., and such agencies as he may designate.

Approved: 23 May 1957

/s/ Louey Short
Assistant Secretary of the Army
(Civil-Military Affairs)

These rules and regulations will be in full force and effect and have the full force of law thirty days after their publication in the Federal Register. They were published in the Federal Register 13 July 1957; public notices of their approval were sent to all known interested parties on 19 July 1957; they have been posted in the post offices at Miami, Miami Beach, Homestead, Florida City, Marathon, Key West, Key Largo, Islamorada, Perrine, Ft. Lauderdale, Palm Beach, West Palm Beach, Ft. Myers, St. Petersburg, Tampa and Clearwater, all in Florida, and furnished to local press for publication as a news item.

APPENDIX 19

BEST COPY AVAILABLE

Revoked

DANGER AREA

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), and chapter XIX of the Army Appropriation Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), section 204.84 is amended to govern the use and navigation in Florida Bay northeast of Pine Islands as follows:

204.~~84~~ 86 Florida Bay northeast of Pine Islands, Fla.; live firing area for strafing. (a) The danger zone. (1) Bounded on the north by latitude 24° 51' 08"; on the east by longitude 81° 13' 52"; on the south by latitude 24° 48' 52"; and on the west by longitude 81° 16' 21".

(2) The hull of an ex-naval vessel (PE-19) is located in the center of the area and is used by United States Fleet Aircraft for live strafing.

(b) The regulations. (1) The area is closed to all vessels at all times.

(2) The regulations in this section shall be enforced by the Captain of the Port, Key West, Florida.

Approved 29 December 1948.

William H. Draper, Jr.
Acting Secretary of the Army.

These regulations, when published, have the force of law. They were published in the Federal Register on 31 December 1948; public notices of their approval were sent to all interested persons known to this office on 1 March 1949; they have been posted at post offices at Key West, Marathon, Tavernier, Florida City, Homestead, Miami and Miami Beach, Florida.

APPENDIX 20

TITLE 33 - NAVIGATION AND NAVIGABLE WATERS

CHAPTER II - CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204 - DANGER ZONE REGULATIONS

FLORIDA BAY, FLORIDA

Pursuant to the provisions of Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) Section 204.86 establishing and governing the use of a danger zone in Florida Bay, Northeast of Pine Islands, Florida is hereby revoked, effective upon publication in the Federal Register.

Since the revocation constitutes only a procedural matter, notice of proposed rule making and public procedures thereto are considered unnecessary. Accordingly, Part 204.86 of Title 33 of the Code of Federal Regulations is hereby revoked as follows:

204.86 Florida Bay, Northeast of Pine Islands, Florida live firing area for strafing. (Revoked)

DATE 16 JUL 1973

Approved: Hoffman

Hoffman A. Hall

Acting Secretary of the Army

APPENDIX 21

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true copies of the foregoing APPENDIX have been served upon Robert H. Bork, Solicitor General of the United States of America; and Michael W. Reed, Esq., Department of Justice, Washington, D.C., 20530, Attorneys for Plaintiff; and Brice M. Clagett, Esq., Covington & Burling, 888 Sixteenth Street, N.W., Washington, D.C., 20006, Attorneys for Amici Curiae, by United States Mail, this 8th day of August, 1974.

DANIEL S. DEARING
Chief Trial Counsel
Attorney for Defendant,
STATE OF FLORIDA.